

IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

SPECIAL CIVIL APPLICATION No 3907 of 1985

For Approval and Signature:

Hon'ble MR.JUSTICE S.K.KESHOTE

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1. Whether Reporters of Local Papers may be allowed to see the judgements?
2. To be referred to the Reporter or not?
3. Whether Their Lordships wish to see the fair copy of the judgement?
4. Whether this case involves a substantial question of law as to the interpretation of the Constitution of India, 1950 of any Order made thereunder?
5. Whether it is to be circulated to the Civil Judge?

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RAJNIKANT KANTILAL SHAH

Versus

GUJARAT STATE FINANCIAL CORPORATION

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Appearance:

MR JR NANAVATI for Petitioner

None present for Respondents

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CORAM : MR.JUSTICE S.K.KESHOTE

Date of decision: 09/10/97

ORAL JUDGEMENT

Heard the learned counsel for the petitioner and perused the special civil application.

2. The petitioner, an Assistant of Gujarat State Financial Corporation, filed this special civil application before this Court and prayer has been made therein for direction to the Corporation to promote him as Deputy Manager in place and instead of respondent No.2

and to give all the consequential benefits of salary, increment, dearness allowance, leave etc..

3. The facts of the case, in brief, are that the petitioner entered in the service of the Corporation as Clerk-Typist which post he joined in November, 1970. Then he was promoted as Junior Assistant (subsequently redesignated as Assistant) in the month of November, 1973. In April, 1982, he was promoted as Assistant Secretary. In the seniority list of Assistants published by the respondent-corporation, the petitioner stands at Sr. No.18 whereas the respondent No.2 stands at Sr. No.31. The respondent No.2 was given the promotion as Deputy Manager on 5th January, 1984 though what the petitioner contended that he is junior to him. He made a representation against this promotion and he also approached to the Board by filing an appeal on 29th January, 1985, but what order has been passed on appeal has not been produced on the record. Hence, this special civil application before this Court.

4. The learned counsel for the petitioner does not dispute that the respondent No.2 was promoted as Assistant Accountant in the year 1980. The channel of promotion has been provided from Assistant/Jr. Inspector - Arts/Commerce/Science to different posts namely, Assistant Secretary, Sr. Inspector, Assistant Accountant and Legal Assistant. To the post of Assistant Accountant only Commerce graduate is eligible whereas to the post of Legal Assistant only persons having L.L.B. qualification is eligible. As the respondent No.2 was commerce graduate whereas the petitioner was not, he has been promoted to the post of Assistant Accountant in the month of January, 1980. The petitioner was not eligible for promotion to the post of Assistant Accountant. However, he was eligible for promotion to the post of Sr. Inspector and he has also been offered the promotion equivalent to the post of Sr. Inspector but as he has been posted elsewhere than Ahmedabad he declined to accept the promotion. So the respondent No.2 has been promoted to the next higher post in the year 1980 whereas the petitioner has been promoted to the equivalent post in the month of April, 1982 and as the promotion of the respondent No.2 is earlier in point of time he became senior to the petitioner in the cadre of Assistant Accountant/Sr. Inspector for further promotion to the post of Deputy Manager. The seniority of the petitioner on which much emphasis has been placed of the cadre of Assistant has no relevance to the promotion to the post of Deputy Manager. The petitioner's claim is wholly misconceived and the same cannot be accepted. In the

garb of challenge of promotion of the respondent No.2 on the post of Deputy Manager, the petitioner cannot be permitted to challenge the promotion of respondent No.2 on the post of Assistant Accountant more so when the petitioner was not eligible for promotion to the post of Assistant Accountant.

5. Taking into consideration the totality of the facts of this case, this special civil application is wholly misconceived and the same is dismissed. Rule discharged. Interim relief, if any, granted by this Court stands vacated.

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